

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
By: MARA E. TRAGER (MT-4598)
Assistant United States Attorney
86 Chambers Street, 3rd Floor
New York, New York 10007
Tel. No.: (212) 637-2799

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	<u>Complaint</u>
- against -	:	
ANTHONY TURCHIARELLI,	:	07 Civ.
Defendant.	:	

-----x

The United States of America, by its attorney, Michael J. Garcia, United States Attorney for the Southern District of New York, for its complaint alleges as follows:

1. This is a civil action brought by the United States of America (the "United States") against defendant Anthony Turchiarelli ("Defendant") under the False Claims Act, 31 U.S.C. §§ 3729-3733 (the "False Claims Act"), to recover damages sustained by, and penalties owed to, the United States as the result of Defendant's having knowingly presented or caused to be presented to the United States false or fraudulent claims for reimbursement from the federal Food Stamp program during the years 2000 through 2002, which claims were paid from the United States to the Defendant and/or his solely-owned business.

JURISDICTION AND VENUE

2. This Court has jurisdiction pursuant to 31 U.S.C. § 3730(a) and 28 U.S.C. §§ 1331, 1345.

3. Venue lies in this District pursuant to 31 U.S.C. § 3732(a) and 28 U.S.C. §§ 1391(b), 1391(c), because Defendant resides in this District and because many of the acts complained of herein took place in this District.

PARTIES

4. Plaintiff is the United States, on behalf of its agency, the United States Department of Agriculture ("USDA") and its component, the Food and Nutrition Service ("FNS").

5. Defendant Anthony Turchiarelli, is an individual who resides at 831 E. 224 Street, Bronx, New York 10466. At all times relevant hereto, Defendant owned Tony's Prime Meats, which is located at 3960 White Plains Road in the Bronx, New York.

FACTS

A. The Food Stamp Program

6. The FNS of the USDA administers a food stamp program in which retail food stores that have been authorized to participate in the program may sell food in exchange for coupons or stamps presented by members of eligible low-income households. Food stamps may only be used for the purchasing of food. And pursuant to 7 U.S.C. § 2016 and 7 C.F.R. § 278.2 (a), an authorized retail food store may not exchange cash for USDA food stamps except when cash is returned as change in a transaction in which food stamps were accepted for payment for specified food items.

7. Food stamps are provided through the use of Electronic Benefit Transfer ("EBT") cards, which are distributed to eligible recipients and function in a manner similar to debit cards. EBT cards have a magnetic strip containing electronically coded information regarding the particular recipient and the dollar amount of benefits to which the recipient is entitled. The benefits amount for a particular recipient's account are electronically encoded on the EBT card's magnetic strip at the beginning of the month. Authorized retailers receive a computer terminal from the FNS that is capable of reading the coded information and adjusting the available dollar amount on each recipient's EBT card.

An electronic benefits transfer is initiated at the retailer's terminal by deducting benefits from the recipient's account and crediting that amount to the retailer's designed bank account. For each transaction, the terminal prints a receipt stating: "DO NOT DISPENSE CASH." In addition, at the initial training session that authorized retailers are required to attend, the FNS informs the retailers that cash may not be dispensed during a food stamped EBT transaction, except as change returned for a sale of food. The FNS maintains computerize records, including the time and amount of each transaction concluded at each authorized retailer.

8. When a retailer applies to participate in the food stamp program, the retailer must identify the food store's address, daily hours of business, estimated gross annual food sales, store owners and other pertinent information. In addition, the retailer must identify the specific bank account into which the retailer intends to deposit food stamp proceeds (the "Designated Bank Account"). The retailer must also provide the FNS with certain supporting documentation, including the store lease or ownership information, and a certificate of incorporation. Before the FNS will authorize a retailer to participate in the program, a retailer or a designated representative must attend a FNS orientation class during which the applicable rules and regulations governing the food stamp

program are taught.

B. Tony's Prime Meats

9. In or about 1972, the Defendant applied for a license accept and redeem food stamps through his retail meat store known as "Tony's Prime Meats," which is located at 3960 White Plains Road, Bronx, NY 10466 ("Tony's Prime Meats"). In his applications, the Defendant identified himself as the owner of Tony's Prime Meats. At all times relevant to this action, Tony's Prime Meats had only one cash register.

10. In his application, the Defendant identified Fleet National Bank ("Fleet"), as his Designated Bank Account for Tony's Prime Meats. The Defendant is listed as the account holder of his Designated Bank Account.

11. On or about May 15, 1972, the Defendant, as the owner of Tony's Prime Meats, attended an orientation class where he was taught the rules and regulations that govern the food stamp program. According to the records, the Defendant was advised, among other things, that food stamps could only be redeemed for specified food products.

12. On or about May 17, 1975, FNS authorized Tony's Prime Meats to participate in the food stamp program. On or about January 14, 1998, the FNS re-authorized Tony's Prime Meats' participation in the food stamp program.

13. During the period May 2, 2001 until September 19,

2002, on no less than ten separate occasions in direct violation of the applicable rules and regulations, defendant or his employees exchanged food stamps valued at approximately \$2,430.00 for approximately \$1,910.00 in cash.

14. Upon information and belief, during this same period, defendant or his employees exchanged food stamps for cash in far greater amounts.

15. The USDA through FNS would not have paid the Defendant for the food stamps if it had known that, in fact, Defendant had not sold food for the stamps, but had exchanged them for cash.

CLAIM FOR RELIEF

**Violations of the False Claims Act
(31 U.S.C. § 3729(a)(1))**

16. The United States incorporates by reference paragraphs 1 through 14 above as if fully set forth herein.

17. The United States seeks relief against Defendant under Section 3729(a)(1) of the False Claims Act, 31 U.S.C. § 3729(a)(1).

18. As set forth above, Defendant knowingly presented or caused to be presented to an officer, employee or agent of the United States false or fraudulent claims for payment under the Food Stamp program.

19. The United States, through its agency USDA, paid such false or fraudulent claims because of the acts and conduct

of Defendant.

20. By reason of these false claims, the United States sustained damages in a substantial amount to be determined at trial.

WHEREFORE, plaintiff, the United States, requests that judgment be entered in its favor and against Defendant as follows:

- (a) for treble the United States' damages, in an amount to be determined at trial, plus a penalty of \$11,000 for each false claim presented, pursuant to 31 U.S.C. § 3729(a);
- (b) awarding costs pursuant to 31 U.S.C. § 3729(a); and
- (c) awarding such further relief as the Court deems proper.

Dated: New York, New York
August __, 2007

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York,
Attorney for Plaintiff
United States of America

By: _____
MARA E. TRAGER (MT-4598)
Assistant United States Attorney
86 Chamber St
New York, New York 10007
Tel. No.: (212) 637-2799